

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 264

September Term, 2016

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CHERYL LYNNE TARVER

v.

CARLOS L. ALEXANDER

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Graeff,  
Kehoe,  
Moylan, Charles E., Jr.,  
(Senior Judge, Specially Assigned)  
JJ.

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Opinion by Kehoe, J.

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Filed: August 10, 2017

\*This is an unreported opinion, and it may not be cited in any paper, brief, motion or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. *See* Md. Rule 1-104.

The issue in this case is whether the Circuit Court for Prince George’s County, the Honorable Krystal Quinn Alves presiding, erred when it denied Cheryl Lynne Tarver’s request for interest on an unpaid child support obligation that was secured by a statutory lien on the child support obligor’s residence but not by a judgment against him. The circuit court concluded that it did not have the authority to award interest. We agree with Judge Alves and will affirm the court’s judgment.

### **Background**

Ms. Tarver and Carlos L. Alexander are the parents of a now-emancipated child. Ms. Tarver brought a child support action against Mr. Alexander in the Circuit Court for Montgomery County and, at some point prior to 2002, Mr. Alexander was ordered to pay \$715 per month in child support. Between 2002 and 2009, Mr. Alexander fell behind in his payments, eventually accumulating an arrearage of \$30,457.41.

Unpaid child support that is payable through a child support enforcement agency<sup>1</sup> constitutes a lien on the obligor’s real and personal property. *See* Family Law Article (“FL”) § 10-140.<sup>2</sup> A child support enforcement agency is authorized to record a notice of

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<sup>1</sup> The Child Support Enforcement Administration is the State agency responsible for collecting child support. In Montgomery County, the Administration has delegated those functions to the Montgomery County Office of Child Support Enforcement. *See Kelly v. Office of Child Support Enforcement*, 227 Md. App. 106, 111 (2016).

<sup>2</sup> FL § 10-140(a)(1) reads, “Unpaid child support, due under an order requiring payments through a support enforcement agency, constitutes a lien in favor of the obligee on all real and personal property of the obligor.”

lien with the clerk of a circuit court. FL § 10-141(a).<sup>3</sup> On November 17, 2009, a lawyer for the Montgomery County Office of Child Support Enforcement filed such a notice by means of a paper in the support action titled “Amended Notice of Lien of Judgment.” Shortly thereafter, a copy of the lien notice was filed in the Circuit Court for Prince George’s County. Mr. Alexander owns a home in that county.

The record indicates that, in 2015: (1) Mr. Alexander satisfied the arrearage in full; (2) the parties’ child reached the age of majority; and (3) the Administration closed the child support action. However, Ms. Tarver took the position that Mr. Alexander was also obligated to pay her \$7,717.59, representing interest on the unpaid balance after the date of the filing of the notice of lien. She filed a request for a writ of execution on Mr. Alexander’s property. Mr. Alexander filed an opposition to the request and, as additional relief, moved that the notice of lien should be marked as “satisfied” in the court records. Initially, the circuit court denied the request for a writ of execution and ordered that the lien be designated as “satisfied.” Ms. Tarver filed a motion for reconsideration, which the court granted. This set the stage for the hearing before Judge Alves, which occurred on March 10, 2016.

At the hearing, the parties presented essentially the same arguments as they do to us. We’ll summarize Ms. Tarver’s contentions shortly, but, in order to put Judge’s Alves’s

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<sup>3</sup> FL § 10-141(a) reads, “The Administration may file a notice of a child support lien with the clerk of a circuit court.”

ruling in context, Mr. Alexander’s lawyer analogized the lien against his client’s property to a lien imposed by a homeowner’s association pursuant to the Maryland Contract Lien Act, Real Property Article (“RP”) § 14-201 *et seq.*, counsel’s point being that neither lien was established by a judgment of a court. After considering the parties’ presentations, the court concluded:

This is a very interesting question. And I don’t think this question really has been addressed in any case law[.]

There is a public policy aspect to this that non-custodial parents who owe child support should pay that support. But I also agree with . . . Mr. Alexander’s counsel that child support is an obligation.

And although regular judgments do accrue the regular post judgment interest, it’s the Court’s inclination that the situation in this case is more akin to . . . a homeowner not paying their homeowner’s association dues[.]

And for this reason I am going to grant [Alexander’s] motion.

And, I hope somebody takes this up and appeals it to get a definitive answer[.]

### **Analysis**

Ms. Tarver equates the child support lien with a judgment entered on behalf of “a parent who is owed child support arrearages,” and concludes that she has an enforceable right to collect interest from Mr. Alexander before the lien is released. To reach this result, Ms. Tarver argues:

*First*, that she has the right to post-judgment interest because FL § 10-141(c)(1) provides that, after the notice of lien is filed, “a child support lien has the full force and effect of a judgment lien” and FL § 10-141(c)(2) provides that “[a] child support lien

established under Part IV of this subtitle may be enforced in accordance with the Maryland Rules.”

*Second*, that the circuit court “erred by concluding that a Lien of Judgment for unpaid child support does not accrue interest . . . because the Court mistakenly believed that a lien for unpaid homeowners association dues does not accrue interest.” Ms. Tarver argues that the analogy is inapt, because “[RP] §14-202(b)(1) provides that a real property ‘lien may only secure the payment of Damages’ as defined under [RP] § 14-201(c)(1) [which states that] ‘damages’ means unpaid sums due under a contract, plus interest on the unpaid sums[.]”

Ms. Tarver’s attempt to conflate the terms “judgment” and “lien” is not persuasive. Explaining why requires us to examine several provisions of the Courts and Judicial Proceedings Article that relate to judgments, as well as provisions of the Family Law Article that relate to liens for unpaid child support.

### **Statutory Construction**

The resolution of this case turns on our interpretation of several statutes. Writing for this Court during her tenure with us, the Honorable Michele D. Hotten explained that:

[O]ur primary goal in statutory interpretation is to ascertain and effectuate the intent of the legislature. We start our analysis by beginning with the plain language of the statute, and ordinary, popular understanding of the English language dictates interpretation of its terminology. This plain meaning should be construed to carry out and effectuate, or aid in, the general purposes and policies of the statute being interpreted. When reading the statute, we apply a common sense perspective of how the statutory language is generally understood. Additionally, the Court of Appeals discussed the basic concepts governing statutory construction, noting:

If the language of the statute is clear and unambiguous, we need not look beyond the statute’s provisions and our analysis ends. If however, the language is subject to more than one interpretation, it is ambiguous, and we resolve that ambiguity by looking to the statute’s legislative history, case law, and statutory purpose. *Barbre v. Pope*, 402 Md. 157, 173 (2007).

*Comptroller v. Shipe*, 221 Md. App. 425, 428–29 (2015) (some citations, quotation marks, and brackets omitted).

### **Judgments and Liens**

Under Maryland law, all “money judgments” entered by, or recorded in, circuit courts, are liens against any real property owned by the judgment debtor located within the court’s jurisdiction. *See* CJP § 11-402(b). In this context, a “money judgment” means “a judgment determining that a specified amount of money is immediately payable to the judgment creditor.” CJP § 11-401(c)(1). CJP § 11-107 states in pertinent part that “the legal rate of interest on a judgment shall be at the rate of 10 percent per annum on the amount of judgment.”<sup>4</sup>

The term “judgment” “means any order of court final in its nature entered pursuant to these rules.” Md. Rule 1-202(o). The only official who can render a judgment is a judge. “Rendition of judgment is . . . the *court’s* pronouncement, by spoken word in open court or by written order filed with the clerk, of its decision upon the matter submitted to it for adjudication.” *Davis v. Davis*, 335 Md. 699, 710 (1994) (emphasis added).

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<sup>4</sup> CJP § 10-107 is subject to exceptions that are not relevant to this appeal.

In contrast, a “lien” is “a legal right or interest that a creditor has in another’s property, lasting usually until a debt or duty that it secures is satisfied.” BLACK’S LAW DICTIONARY 1063 (10th ed. 2014). When a parent is required to make child support payments through a child support agency—which occurred in the case before us—the amount of any delinquent payments “constitutes a lien in favor of the obligee on all real and personal property of the obligor.” FL § 10-140(a). The Child Support Enforcement Administration is authorized to file a notice of lien in the records of the circuit court and, after the notice is filed, the lien “has the full force and effect of a judgment lien.” FL 10-141(c)(2). No action or decision by a judge is required to enter a lien for unpaid child support. The Administration, and not a judge, decides the amount of the lien. The Administration, and not a judge, decides whether to file a notice of lien. The judicial role comes later in the process.

FL § 10-142 sets out the means by which a lien can be enforced (emphasis added):

(a) If a child support lien is not satisfied or released, *the Administration* may bring an action in a circuit court to enforce the lien.

. . . .

(c) The *court*, acting without a jury, shall: (1) adjudicate all matters involved in the proceedings; and (2) *determine the merits of all claims or liens*.

(d) If the claim of the obligee is established, *the court* may order: (1) a sale of the property or rights to property; and (2) a distribution of any proceeds of sale to the Administration or obligee.

By the plain meaning of the language of the statute, § 10-142 provides that a lien for unpaid child support is not enforceable against the delinquent obligor’s property unless and until (1) the Administration files an action to enforce the lien; (2) the court decides

the merits of all claims and liens; and (3) the court orders the sale. The latter two steps (if they occur at all) would constitute a court’s judgment. Of course, steps 2 and 3 did not occur in this present case. Instead, the judgment in this case occurred when Judge Alves ruled that the notice of lien filed by the Administration was not a money judgment that accrued interest pursuant to CJP § 11-107.

Ms. Tarver relies on FL § 10-141(c)(1), which states that, after a notice of lien is filed, a lien for unpaid child support “has the full force and effect of a judgment lien.” There are no reported Maryland appellate decisions that have construed that language in the context of a lien for unpaid child support. However, we have considered almost identical language in a very similar statutory context that appears in the Tax–General (“TG”) Article.

TG § 13-805(a) provides that “unpaid tax, interest and penalties constitute a lien, in favor of the State, extending to all property . . . belonging to. . . the person required to pay the tax[.]” TG § 13-807 authorizes a collector of taxes<sup>5</sup> to file a notice of lien with the

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<sup>5</sup> TG § 13-101(c)(1) states that “‘Tax collector’ means the person or governmental unit responsible for collecting a tax.” Those individuals and units, listed in TG § 13-101(c)(2), include:

- (i) the Comptroller;
- (ii) the Department, with respect to:
  1. the financial institution franchise tax; and
  2. the public service company franchise tax; and
- (iii) the registers of wills, with respect to the inheritance tax.



clerk of the circuit court of the county in which property subject to the lien is located. TG § 13-808 states that, from the date of its filing, “the lien has the full force and effect of a judgment lien.” TG § 13-810 authorizes the Attorney General to file an action to enforce the lien in a procedure that is substantively identical to the process set out in FL § 10-142.

Both the Court of Appeals and this court have interpreted TG § 13-808 and its statutory predecessors. In none of these cases has either court concluded that § 13-808 means that a tax lien is a judgment. Instead, Maryland’s appellate courts have interpreted the language to mean that a tax lien takes priority against competing liens in the same ways that a judgment does, *F&M Nat’l Bank v. Schossberg*, 306 Md. 48, 67 (1986); that a tax lien is perfected against personal property without the necessity of garnishment, *Liquors Dealers v. Comptroller*, 241 Md. 656, 660 (1966); and that, for purposes of the statute of limitations, a tax lien is to be treated the same as a judgment in favor of the State, *Comptroller v. Shipe*, 221 Md. App. 425, 434, 440 (2015).

We see no reasons why the same reasoning should not apply in the statutes before us. It is clear to us that FL § 10-141(c)(1) means that a recorded lien for unpaid child support will be treated *as if* it were a judgment in order to decide disputes over the rights of creditors, and that such a lien will be treated *as if* it were a judgment for purposes of determining whether the lien is enforceable. Section 10-141(c)(1) does not mean that a child support lien *is* a judgment. And only judgments accrue interest pursuant to CJP § 11-107.

### **Ms. Tarver’s Other Contentions**

Ms. Tarver points out that the Office of Child Support Enforcement used the term “Notice of Lien of Judgment” when it filed the notice of lien notice of lien with the clerk’s offices in the Circuit Court for Montgomery County and the Circuit Court for Prince George’s County and the docket entries in the latter court used the same terminology. She is correct. However, this was an error on the part of both the Office of Support Enforcement and the clerk’s office. The inaccurate terminology used by the Office of Support Enforcement does not convert a notice of lien into a judgment of the court. *See, e.g., Corapcioglu v. Roosevelt*, 170 Md. App. 572, 590-591 (2006) (“It is well established in Maryland law that a court is to treat a paper filed by a party according to its substance, and not by its label.”).

Ms. Tarver’s final contention that the circuit court erred in likening a child support lien to a lien established through the Maryland Contract Lien Act does not change the result. Judge Alves’s point was that such a lien does not constitute a court judgment. In this, she was entirely correct. The Contract Lien Act does provide that a lien established according to its provisions may secure payment of “damages.” But “damages” is a defined term in the act; it means “unpaid sums under a contract plus interest accruing on the unpaid sum *due under a contract*[.]” RP § 14-201(c) (emphasis added). In other words, the contract in question, typically a homeowners’ or unit owners’ declaration of covenants, must provide that interest is due on unpaid money owed to the community or condominium association. There is nothing similar in the law as to unpaid child support obligations.

We sympathize with Ms. Tarver and other parents in similar situations. But we are obligated to interpret the law as it is. And, at the present time, there is no basis for a court to allow interest on liens for unpaid child support.

**THE JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S  
COUNTY IS AFFIRMED. APPELLANT TO PAY COSTS.**